Supreme Court, U.S.
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No. 95-898

IN THE
Supreme Court of the United States
OCTOBER TERM, 1995

WILLIAM T. SENTER,
Petitioner,
vs.
HUGHES AIRCRAFT COMPANY, and
ELECTRONIC AND SPACE TECHNICIANS,
Local 1553, A Labor Union,
Respondents.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

A. Did the Court of Appeals properly sustain the District Court's grant of summary judgment in favor of both the Respondents upon a basis fairly presented by the record?

B. Does the Petition present any novel important question of federal labor law which has not been, but should be decided by this Court regarding a union's exercise of its duty of fair representation under Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185(a)?

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

List of Hughes Aircraft Company's Parent Company and Subsidiaries

Parent Company:

Hughes Electronics Corporation

(Nonwholly owned) Subsidiaries of Hughes Electronics Corporation:

None

(Nonwholly owned) Subsidiaries of Hughes Aircraft Company:

ACCSCO S.A.

ELEKLUFT Elektronik—und Luftfahrtgerate GmbH

Empresa Nacional de Optica S.A.

Guiado y Control S.A.

International Electro-Optical Industry Anonim Sirketi

The Gulf Industrial Technology Company (KSC)

Translant, Inc.

UKADGE Systems Limited

FLIR Systems, Inc.

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No. 95-898

In The
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WILLIAM T. SENTER,
Petitioner,
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Local 1553, A Labor Union,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Respondent Hughes Aircraft Company (hereinafter referred to as "Hughes") respectfully submits the following Brief in Opposition to the Petition for Writ of Certiorari ("Petition" or "Pet.") filed by William T. Senter (hereinafter referred to as "Petitioner").

OPINIONS AND JUDGMENTS BELOW — Supplemented List

The Judgment in favor of Respondent Hughes, signed and filed January 14, 1994, entered January 27, 1994 (*infra*, Opposition Appendix pages A1-A9 [unreported];

Judgment in favor of Respondent Electronic and Space Technicians, Local 1553, AFL-CIO (hereinafter referred to as "EAST" or "Union"), signed and filed January 14, 1994, entered January 27, 1994 (*infra*, Opposition Appendix pages B1-B2 [unreported] (hereinafter referred to as "Opp. App.").

JURISDICTION

Hughes contends that the instant Petition was not timely filed in accordance with the Rules of the United States Supreme Court, including *inter alia* Rules 5, 9, 13, 22 and 30.

STATUTORY AND REGULATORY PROVISIONS

This case arises under Section 301 of the Labor Management Relations Act, 1947 ("LMRA"), 61 Stat. 156, 29 U.S.C. § 185(a) (West Supp. 1995), which states:

> Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined by this Act, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

Section 411(a)(4) from the "Bill of Rights of Members of Labor Organizations" in the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. § 401, *et seq.* ("LMRDA") (West Supp. 1995), excerpted in the

Petition (3, 20), provides in its entirety:

> No labor organization shall limit the right of any member thereof to institute an action in any court, or in any proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided,* That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof; *And provided further,* That no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

United States Supreme Court Rule 9.1 provides:

> An attorney seeking to file a document in this Court in a representative capacity must first be admitted to practice before this Court as provided in Rule 5, except that admission to the Bar of this Court is not required for an attorney appointed under the Criminal

Justice Act of 1964, see 18 U.S.C. §3006A(d)(6), or under any other applicable federal statute. The attorney whose name, address, and telephone number appear on the cover of a document presented for filing is considered counsel of record, and a separate notice of appearance need not be filed. If the name of more than one attorney is shown on the cover of the document, the attorney who is counsel of record shall be clearly identified.

STATEMENT OF THE CASE

Following layoff from his position as timekeeper at Hughes, Petitioner filed a grievance under the Southern California collective bargaining agreement[1] that governed the terms and conditions of his employment, seeking transfer to another Hughes facility located in Carlsbad, California, in lieu of layoff. The facility to which he sought transfer operated under a separate and distinct collective bargaining agreement[2] under which Petitioner had no contractual rights. Furthermore, timekeeper was not a bargaining unit position under the Carlsbad Agreement.

Petitioner filed a layoff grievance as soon as he was notified of his impending layoff, which was rejected as premature by the Company with the concurrence of the Union. Following his layoff, he filed a second

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[1] Agreement between Hughes and EAST, effective November 2, 1991 to November 5, 1994 ("Southern California Agreement").

[2] Agreement between Hughes' Industrial Products Division and Hughes Technology Center and EAST, effective March 4, 1989 through June 27, 1992 ("Carlsbad Agreement").

grievance. The Union processed his second layoff grievance through the third step (informal arbitration) of the four-stage mandatory grievance and arbitration procedure set out in the Southern California Agreement. On September 23, 1992, after additional informal resolution efforts with the Company failed, the Union informed Petitioner that it would not proceed to formal final and binding arbitration — the last step of the mandatory grievance and arbitration procedure — based upon its determination that his grievance lacked sufficient merit — *i.e.*, that he lacked contractual rights under the Southern California Agreement to either the facility or the position to which he sought transfer.

On March 17, 1993, Petitioner filed a state court action against Hughes and the Union for breach of an employment contract and unfair labor practices.[3] Petitioner concedes the action was properly removed by the Union and the Company under Section 301 of the LMRA (Pet. 10). On January 27, 1994, the District Court entered summary judgment in favor of the Union and Hughes and against Petitioner on his complaint (Opp. App. A1-A9 and B1-B2). The District Court held that Petitioner's complaint for breach of the collective bargaining agreement against Hughes failed because (1) as a matter of law, he had not satisfied the jurisdictional prerequisites to file suit against Hughes — to wit, he had not exhausted the collective bargaining agreement's mandatory grievance procedure and he had failed to

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[3] The questions presented in the Petition do not encompass the unfair labor practice claims. Petitioner thus does not challenge the Court of Appeals ruling that the District Court properly exercised discretionary supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) over his claims under California Labor Code §§ 923 and 1122 and properly determined that those state law claims are preempted by federal labor law, specifically, Section 8 the National Labor Relations Act, 29 U.S.C. § 158.

demonstrate that the Union breached its duty of fair representation by declining to process his grievance through formal arbitration; and (2) he lacked any rights under his collective bargaining agreement (the Southern California Agreement) to either the facility or the position to which he sought a transfer. The District Court denied Petitioner's Motion for Reconsideration on March 30, 1994.

Petitioner appealed to the Ninth Circuit Court of Appeals, which on April 20, 1995, affirmed the District Court's grant of summary judgment in favor of both Hughes and the Union on the grounds that "Petitioner has failed to present sufficient evidence raising a genuine issue of material fact that the Union breached its duty of fair representation" in handling his grievance (Pet. App. 4). The Court of Appeals approved the District Court's finding that Petitioner lacked contractual rights to the position to which he sought transfer in lieu of layoff (*ibid.*).[4] On June 7, 1995, the Court of Appeals denied a petition for rehearing (Pet. App. 7).

In the instant Petition for a Writ of Certiorari, Petitioner seeks this Court's review on two principal grounds. First, he seeks review under Rule 10.1(a) on the ground that the Court of Appeals affirmed the District Court decision on a point neither raised, briefed nor argued by the parties, and therefore, so departed from the accepted and usual course of judicial proceeding as to call for an exercise of this Court's plenary power of supervision. Second, pursuant to Rule 10.1(c), he contends that the case presents a ripe and important federal labor law question regarding the parameters of the Union's duty of fair representation, although nothing in

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[4] The Court of Appeals also ruled that the District Court had not abused its discretion in denying Petitioner's Motion for Reconsideration (Pet. App. 6).

its recent Section 301 decisions suggests that such an issue might appeal to this Court. Petitioner nonetheless invites the Court to retreat from the guiding principles of federal labor law enunciated in *Vaca v. Sipes*, 386 U.S. 171, 190 (1967), and its progeny, concerning the requirement that an employee grievant exhaust his contractual remedies or allege a breach of a union's duty of fair representation as a jurisdictional prerequisite to filing suit against an employer for breach of a collective bargaining agreement.

As demonstrated below, the Court of Appeals for the Ninth Circuit fully considered and correctly decided the issues. In any event, the Petition does not present any important question of federal law upon which there are conflicting decisions by the Courts of Appeals, or which otherwise should be decided by this Court. Indeed, this Petition is nothing more than a thinly-veiled attempt to have this Court sit as the ultimate fact finder and evaluate the merits of Petitioner's grievance for the *sixth* time. Accordingly, this Court should dismiss the instant Petition and let the lower courts' well-reasoned judgments stand.

CORRECTIONS TO PETITIONER'S STATEMENT OF THE CASE

Successor or Assignee: Article II, Section E, Successor or Assignee, paragraph 1 of the Southern California Agreement provides: "This Agreement shall be binding on any successor or assignee of all or a major part of the Employer." (Opp. App. C3). This provision of the Southern California Agreement applies, if at all, only when an entity other than Hughes assumes control. Contrary to Petitioner's unsupported assertion (Pet. 7), one of Hughes' own facilities or divisions does not constitute such a successor or assignee to another

Hughes' facility or division. No successor issue is raised by a transfer of work within Hughes because no other entity is assuming control from Hughes.

Supplemental Agreement # 11: Petitioner omits the short but pertinent introductory paragraph of Supplemental Agreement # 11, which is appended to the Southern California Agreement (Pet. 5). The omitted paragraph states, "Pursuant to our discussion during contract negotiations, this will confirm our understanding concerning facilities which may be opened in the San Diego area." (Opp. App. D2). In this case, the work from the closed facility was transferred to an existing, not a new facility, and both facilities already were represented by the Union. The omitted paragraph establishes that Supplemental Agreement # 11 has no application here.

Agreement to Negotiate Integration of Two CBAs: Following adoption of the Carlsbad Agreement "en toto" as an Addendum to the Southern California Agreement in 1992 (Pet. 6), the Company and the Union agreed to negotiate over eliminating all language differences between the two CBAs and integrating them into a single agreement. It was envisioned that this would be a continuing process that would last several years (Opp. App. E2).

Submission Without Oral Argument: Petitioner insinuates that he was prejudiced by the Ninth Circuit deciding his case without oral argument (Pet. 14). However, Petitioner declined oral argument and moved to submit this case for decision on the written record. See Order of the United States Court of Appeals for the Ninth Circuit, Case No. CA: 94-55359, DC: CV-93-02252-Kn (Central Division), filed April 3, 1995 (Opp. App. F1).

ARGUMENT

THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED

The instant Petition should be denied because, as a threshold matter, it was not timely filed by his counsel of record and, in any event, because it presents no important question of federal law requiring this Court's attention. Petitioner simply cannot accept the determination by his Union and each of the reviewing lower courts that he had no right to transfer to either the facility or position that he sought and that, in accordance with long-settled federal labor law jurisprudence, he has failed to demonstrate any breach of the Union's duty of fair representation nor any breach of the collective bargaining agreement by Hughes. As discussed below, his Petition merely seeks to have this Court to sit as the ultimate arbiter and review the facts of his case for the *sixth* time in the hopes of securing a different outcome!

Petitioner fails to appreciate that this Court does not assume the role of ultimate fact finder. Rather, a review on writ of certiorari is a matter of judicial discretion and focuses upon significant questions of *law*, not fact. Accordingly, a petition for a writ of certiorari is granted only when special and compelling reasons exist for this Court's review. See Rule of Court 10.1.[5] This Petition should be denied because the Ninth Circuit Court of Appeals' decision is grounded upon the evidence in the record and comports with long-settled precedents enunciated by this Court across the last half century

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[5] According to the ABA Journal ("Supreme Court Report," by David Savage, December 1995, at page 40), the United States Supreme Court today accepts less than one percent of all petitions filed.

concerning the Union's duty of fair representation and employee-grievants' exhaustion of contractual remedies.

A. The Petition Was Not Timely Filed.

Pursuant to Rule 13 of the United States Supreme Court, a petition for a writ of certiorari must be timely filed before this Court has jurisdiction to entertain the Petition. Hughes respectfully contends that the instant Petition was not timely filed because Petitioner's counsel of record was not admitted to the Bar of this Court when she filed the Petition at the statutory deadline, and therefore, the filing was a null act.

Rule 9.1 of the United States Supreme Court provides in relevant part that, "An attorney seeking to file a document in this Court in a representative capacity must *first* be admitted to practice before this Court as provided in Rule 5, ..." [Emphasis supplied.] Accordingly, any attorney intending to practice before this Court *first* must seek and gain admission to its Bar before filing any papers. Rule 5 sets out the specific requirements for admission to the Bar of this Court. It is a process which can be accomplished in a few weeks, but which must be concluded before an attorney as counsel of record can file any document with this Court.

In the instant case, the United States Court of Appeals for the Ninth Circuit entered its Memorandum of Judgment on April 20, 1995, affirming the District Court's grant of summary judgment in favor of Hughes and EAST (Pet. App. 1-6). Petitioner sought a rehearing on May 5, 1995 (Pet. App. 18-31), which the Ninth Circuit Court of Appeals denied by Order filed on June 7, 1995. Pursuant to Rule 13.4, Petitioner had ninety (90) days from that date, or until September 5, 1995, in which to timely file his Petition for a Writ of Certiorari. On

August 25, 1995, pursuant to Rules 13.6 and 22 of this Court, Petitioner applied for and received an extension of time to and including October 5, 1995, in which to file timely his Petition for a Writ of Certiorari with this Court (Pet. App. 32).

Petitioner attempted to file his Petition in this Court on or about October 5, 1995. However, as of that date, Petitioner's counsel of record, Erika W. Senter, was not admitted to the Bar of this Court. Accordingly, the Petition could not be docketed when the Court physically received it. Hughes is informed and believes that Ms. Senter subsequently applied and was admitted to the Bar of this Court on or about December 11, 1995, at which time the Petition was placed on the docket.

Hughes respectfully contends that the putative "filing" of the Petition with this Court on or about October 5, 1995, was a legally null act which did not satisfy the requirements for a timely filing pursuant to the Rules of this Court. Hughes contends that this conclusion is compelled by three considerations: (1) the plain language of Rule 9 of this Court's Rules: (2) the Court's refusal to docket the Petition until such time as counsel of record for Petitioner had been admitted to the Bar of this Court; and (3) practical and policy considerations. To wit, the Rules provide ample notice and time to counsel of record that admission to the Supreme Court Bar is required *prior* to filing any document with the Court. Further, the Rules provide ninety (90) days to prepare and file a petition for writ of certiorari, which provides ample time for counsel of record to seek and gain admission to the Bar and still timely file a petition for a writ of certiorari within the statutory deadline. Moreover, in this case, Petitioner's counsel of record sought an additional extension of thirty days from the Court in which to file his Petition. Petitioner's counsel of record thus had four months in which to gain

admission to the Bar of this Court and still file a timely Petition. Petitioner's counsel of record simply failed to comply with the Rules of this Court and timely file this Petition, and Hughes respectfully submits that this Court should decline to entertain it.

B. The Ninth Circuit Court Of Appeals Properly Decided This Case Based Upon Evidence Fairly Presented In The Record And Upon Grounds Expressly Asserted By The Respondents.

Petitioner first asks this Court to entertain this Petition pursuant to Rule 10.1(a) because he contends that the Ninth Circuit Court of Appeals decided the appeal on a point "not raised, not briefed, and not argued" (Pet. 13), and accordingly, "so far departed from the accepted and usual course of judicial proceedings . . . as to call for an exercise of this Court's power of supervision." As demonstrated below, the Ninth Circuit affirmed summary judgment in favor of Hughes and EAST based upon evidence that was not only present in the record but also briefed and argued.

A United States Court of Appeals reviews the grant of a summary judgment motion *de novo*, examining the record before the court below in the light most favorable to the nonmoving party. *See, e.g., Ashton v. Cory*, 780 F.2d 816, 818 (9th Cir. 1986). *De novo* means that the court should make an independent determination of the issues. *United States v. First City Nat. Bank of Houston*, 386 U.S. 361, 368, 87 S.Ct. 1088, 1093, __ L.Ed.2d __ (1967). The Court of Appeals must determine whether there are any genuine issues of material fact and whether the District Court properly determined that the moving parties were entitled to judgment as a matter of law.

Anderson v. Liberty Lobby Inc., 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S.Ct. 2548, 91 L.Ed.2d 265, 273 (1986) (moving party entitled to a judgment as a matter of law where the nonmoving party has failed to make a sufficient showing on an essential element of his case as to which he has the burden of proof).

Petitioner does not dispute that the Ninth Circuit Court of Appeals outlined the proper legal analysis to determine whether Hughes breached the Southern California Agreement that governed his employment when it laid him off in lieu of transferring him to another facility. To wit, he concedes that to prevail against Hughes, he must first demonstrate that the Union breached its duty of fair representation by failing to process his grievance against Hughes to final and binding arbitration. He further concedes that a determination by the District Court that the Union made a good faith judgment not to pursue his grievance to final arbitration as a matter of law precludes any finding of a breach of the duty of fair representation and, concomitantly, precludes entry of judgment against Hughes for breach of the Southern California Agreement. Finally, Petitioner concurs that the Ninth Circuit was required to evaluate the strength of his grievance against Hughes in order to determine whether the Union made a good faith decision not to pursue his claim to arbitration. (See Pet. 10, 18; Pet. App. 2, 19.)

Petitioner disagrees only with the outcome of the Ninth Circuit's analysis (Pet. 11; Pet. App. 19). After reviewing *de novo* the language of the Southern California Agreement, the Ninth Circuit determined that Petitioner had no contractual rights to the position that he sought at the Carlsbad facility because it was not encompassed within the bargaining unit defined in the Agreement (Pet. App. 3-4). Reviewing the record in its

entirety, the Ninth Circuit further was satisfied that "the Union and Hughes had presented [unrebutted] evidence that the timekeeping position at Carlsbad was not unionized, and that even if timekeeping had been unionized, Senter would have had no rights to that position." (Pet. App. 4). Accordingly, the Ninth Circuit ratified the Union's decision not to pursue Petitioner's grievance to arbitration based upon its lack of merit and affirmed summary judgment in favor of the Union and Hughes. As demonstrated here, the Ninth Circuit properly set forth the pertinent law under section 301 of the LMRA and properly applied that law to the facts.

Petitioner lamely contends that the Ninth Circuit misinterpreted the language in the Southern California Agreement (Pet. 11, 15-16). His contention fails for several reasons. The Ninth Circuit certainly is fully capable of reading the plain language of the Agreement and ascertaining that the "Carlsbad" facility is not included in Petitioner's bargaining unit, and hence not a facility where he has any exercisable contract rights (Pet. App. 1-4, 6-7, 18-20, 23-26). Similarly, the Ninth Circuit is capable of reading Supplemental Agreement # 11 (Opp. App. D2), appended to and set forth *in its entirety* in the Southern California Agreement presented in the record, and ascertaining that it has no bearing on this case because Carlsbad is not a (1) new and (2) non-union location (Pet. App. 7, 21-22, 27-28). Likewise, the Ninth Circuit competently could determine from reading the collective bargaining agreements in the record that Carlsbad did not constitute a "successor" or "assignee" under their provisions or applicable federal labor law (Pet. App. 7, 20-21, 26-27).

Even more importantly, however, *assuming arguendo* that the Ninth Circuit had erred in its conclusions, either basing its ruling upon erroneous findings of fact or misapplying a properly stated rule of law (see Pet.

15-16), none of those grounds present a compelling reason to grant this or any petition for a writ of certiorari. The Ninth Circuit's decision, even if wrongly decided, has a very circumscribed effect, indeed, limited to Petitioner alone. No legal issues of broad import are involved here. Moreover, as noted above, there is no evidence whatsoever that the Ninth Circuit departed in any way from the accepted and usual course of judicial proceedings, and thus there is no warrant to grant this Petition under Rule 10.1(a).

C. No Important Legal Questions Of Federal Labor Law Are Presented By This Petition.

Petitioner lastly suggests that this Court should grant his Petition under Rule 10.1(c) in order to redefine the scope of the Union's duty of fair representation and the concomitant restrictions upon employee-grievants' access to the courts to enforce putative rights under collective bargaining agreements. He complains that requiring employee-grievants to exhaust binding grievance and arbitration remedies under their collective bargaining agreement prior to suing their employer for breach of the agreement effectively precludes rejected grievants from court because unions have broad discretion to decide which grievances to pursue to arbitration (Pet. 18-20). Petitioner contends that federal labor law by affording unions such broad latitude as the employees' exclusive representatives violates the employee's constitutional right of equal protection under the law and contravenes the LMRDA's "Bill of Rights of Member of Labor Organizations," 29 U.S.C. § 411(a)(4) (*id.*).

Before turning to the merits of his argument, two threshold issues warrant mention. First, Petitioner

asserts putative rights under LMRDA for the very first time in this Petition. *See Reed v. United Transportation Union*, 488 U.S. 319, 109 S.Ct. 621, 102 L.Ed.2d 665 (1989) (contrasting claims brought under LMRDA and section 301 of the LMRA). Even were he able to state any such claim upon the facts he has alleged,[6] he obviously is precluded from articulating it at this late hour. *Youkaim v. Miller*, 425 U.S. 231, 96 S.Ct. 1399, 1401, 47 L.Ed.2d 701 (1976) (only under extraordinary circumstances will the Court review a question that was neither pressed nor passed upon below).

Second, Petitioner deliberately omitted the germane reference to exhaustion of internal remedies from his recitation of Section 411(a)(4) in the LMRDA's "Bill of Rights of Members of Labor Organizations" (compare Pet. 3 with Opp. 3). Before seeking judicial redress under the LMRDA, Petitioner is required to exhaust his internal remedies, or demonstrate the futility of so doing, in the same manner as with a Section 301 claim. *N.L.R.B. v. Industrial Union of Marine & Shipbuilding Workers*, 391 U.S. 418, 88 S.Ct. 1717, 1722-24, __ L.Ed.2d __ (1968). Federal courts have enunciated the same policy of judicial noninterference in internal union affairs under the LMRDA as under the LMRA in order to foster union self-regulation.

Petitioner obviously fails to appreciate the roots of federal labor policy and the pivotal role of the unions' duty of fair representation in the scheme initiated by Congress. More than one-half century ago, the federal government sanctioned the *private* dispute settlement

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[6] Petitioner has not alleged union wrongdoing typically redressed under the LMRDA, to wit, expulsion, retaliation for participation in union activities, freedom of speech or assembly issues, dues issues, nor other issues of discriminatory representation. His claim(s) focus instead on the Union's handling of his grievances, which properly is redressed under Section 301 of the LMRA.

arrangements encompassed in collective bargaining agreements as the means of promoting workplace harmony and providing quick and informal settlements of workplace disputes that threatened to disrupt interstate commerce. *Hines v. Anchor Motor Freight, Inc.*, 424 U.S. 554, 571, 96 S.Ct. 1048, 1059, 47 L.Ed.2d 231 (1976). This Court first recognized the duty of fair representation in particular more than fifty years ago in *Steele v. Louisville & Nashville R. Co.*, 323 U.S. 192, 65 S.Ct. 226, 89 L.Ed. 173 (1944), holding that when Congress empowered unions to bargain exclusively for all employees in a particular bargaining unit, thereby subordinating the rights and interests of the individuals to the interest of the unit as a whole, it imposed upon the unions a correlative duty "inseparable from the power of representation" to exercise that authority fairly. *Id.* at 202-04, 65 S.Ct. 233; *accord United Steelworkers of America v. Rawson*, 495 U.S. 369, 373, 110 S.Ct. 1904, 1911, __ L.Ed.2d __ (1990) ("The duty of fair representation is thus a matter of status, not contract."). This Court explicitly has recognized that the fair representation doctrine is the "bulwark to prevent arbitrary union conduct against individuals stripped of redress by the provisions of federal labor law." *Vaca v. Sipes*, 386 U.S. 171, 182, 87 S.Ct. 903, 17 L.Ed.2d 842 (1967).

This Court long has held that unions must have wide discretion to act in what they perceive their members' best interests. *Ford Motor Co. v. Huffman*, 345 U.S. 330, 337-338, 73 S.Ct. 681, 685-86, 97 L.Ed.2d 1048 (1953). Clearly in the context of a plant closure and/or a merger of operations, such as precipitated Petitioner's layoff, a union will be confronted with diverse membership interests which likely cannot be reconciled. The union is guided by its duty of fair representation in attempting to reconcile and promote as many interests as possible. *Cf. Rosario v. Amalgamated Ladies' Garment*

Cutters' Union, Local 10, 605 F.2d 1228, 1242 (2d. Cir. 1979), *cert. denied*, 446 U.S. 919, 100 S.Ct. 1853, 64 L.Ed.2d 273 (1980). In this case, the Union won significant concessions to protect the job and wage classifications of the transferring workers and to upgrade the Carlsbad employees, but they could not prevail on the Company to transfer certain bargaining unit members in support job classifications, including Petitioner as the timekeeper, because of the Company's goal to reduce costs and overhead in the merger of the product lines (Pet. 6-7).

Deferring to the broad discretion of unions in representing their members' diverse interests, this Court held nearly thirty years ago that unions need not arbitrate every grievance. *Vaca v. Sipes*, 386 U.S. at 191-92, 87 S.Ct. at 917-18. Rather, a union owes a duty to serve the interests of all of its members without hostility or discrimination toward any and to exercise its discretion with in good faith and honestly, and to avoid arbitrary conduct. Accordingly, a union may not ignore a meritorious grievance or perfunctorily process it. *Id.* However, where, as here, a union has processed a grievance up to the last step and explored alternative informal resolutions, the reviewing courts properly find that as a matter of law the union has satisfied its duty of fair representation. *Hines v. Anchor Motor Freight, Inc.*, 424 U.S. at 571, 96 S.Ct. at 1059-60. Contrary to Petitioner's contention (Pet. 20), this Court has held that one reason that unions need not process every grievance is the high cost of arbitration. *Schneider Moving & Storage v. Robbins*, 466 U.S. 373, 104 S.Ct. 1844, 1851, n.19, 80 L.Ed.2d 366 (1984), *citing Vaca v. Sipes*, 386 U.S. at 191, 87 S.Ct. at 917 (union may exercise its discretion in good faith to settle grievances "prior to the most costly and time-consuming step in the grievance procedures."). As this Court has recognized, weakening

a union's financial stability might, in turn, impair their ability to function effectively as collective bargaining agents. *See Int'l Brotherwood Elec. Wkrs v. Foust*, 442 U.S. 42, 50-51, 99 S.Ct. 2121, 2126-27, 60 L.Ed.2d 698 (1979).

Just as requiring every grievant to have his day before an arbitrator arguably undermines the purpose of federal labor policy and the union's capacity to work in the best interests of the bargaining unit as a whole, so too would allowing employee-grievants to circumvent collectively bargained dispute resolution procedures. The instant Petition nowhere hints how this Court should redress these abiding federal labor policy concerns without reliance on the doctrine of fair representation and the scheme of exhaustion of contractual remedies which have evolved across the past half century.

Indeed, Petitioner is swimming upstream. Far from cutting back on the union's authority, this Court in recent years has exalted the doctrine of fair representation as an integral element of federal labor policy in affirming decisions of lower courts that have minimized the intrusions on the Union's authority. *See United Steelworkers of America v. Rawson*, 495 U.S. at 372-73, 110 S.Ct. at 1911, __ L.Ed.2d __ (1990) (endorsing view that mere negligence on the part of the union in enforcing a collective bargaining agreement does not arise to a breach of the duty of fair representation); *Chauffeurs, Teamsters and Helpers, Local No. 391 v. Terry*, 494 U.S. 558, 567, 110 S.Ct. 1339, 1346, 108 L.Ed.2d 519 (1990) ("the union typically has broad discretion in its decision whether and how to pursue an employee's grievance").

The old adage comes to mind, "If it ain't broke, don't fix it!" Contrary to Petitioner's appeal, this case exemplifies how well federal labor law policy has evolved over the last half century to promote the goal of

affording unions broad discretion in representing the diverse interests of its memberships. Petitioner's grievance arose out of the closure of the facility where he was employed. Hughes and the Union bargained over the effects of the closure and agreed to negotiate the eventual merger of the bargaining units under a single collective bargaining agreement by 1994 (Pet. 6-7; Opp. App. E1-E3). The Union sought many things from Hughes while bargaining over the effects of the closure of Petitioner's facility, and Hughes sought a number of concessions from the Union. In the end, there were compromises on both sides. The Union gained seniority and grandfathered wage protections for those workers transferring to Carlsbad, but did not prevail on transferring Petitioner and other support personnel with the product line (Opp. App. A4). When Petitioner filed a grievance, the Union processed it vigorously through three steps and then, after failing to effect an informal extra-contractual settlement, concluded that the grievance lacked sufficient merit to take to arbitration. If this employee-grievant is not jurisdictionally barred from resorting to the courts to challenge his union and employer, then no employee-grievant will be barred and the labor relations clock will be turned back more than a half century.

CONCLUSION

For all of the foregoing reasons, this Court should deny the Petition for a Writ of Certiorari.

Dated: January 9, 1996.

Respectfully Submitted,

PATRICIA L. KASSCHAU
Counsel of Record

T. WARREN JACKSON
Of Counsel

Attorneys for Respondent
HUGHES AIRCRAFT COMPANY

APPENDIX A

T. Warren Jackson [CSBN 77506]
Patricia L. Kasschau [CSBN 90617]
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Attorneys for Defendant
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FILED
JAN 14, 1994
Clerk, U.S. District Court
Central District of California
By _____ Deputy

UNITED STATES DISTRICT COURT
CENTRAL DISTICT OF CALIFORNIA

WILLIAM T. SENTER
Plaintiff,
vs.
HUGHES AIRCRAFT COMPANY, ELECTRONIC AND SPACE TECHNICIANS LOCAL 1553, a Labor Union, and DOES 1 through 25, Inclusive,
Defendants.

Case No. CV 93-2252 KN (CHKx)

[PROPOSED] JUDGMENT

DATE: November 29, 1993
TIME: 9:30 a.m.
CTRM: 3

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

Based upon the papers submitted in support of and opposition to the respective summary judgment motions filed by Defendants Hughes Aircraft Company ("Hughes" or the "Company") and Electronic Space and Technicians, Local 1553, AFL-CIO ("East" or the "Union"), this Court has found and adjudged as follows:

The Court determines that the following facts are not in material dispute:

1. Until his layoff on July 10, 1992, Plaintiff William T. Senter ("Senter") was employed by Defendant Hughes Aircraft Company ("Hughes" or the "Company") as a "Timekeeper A" in its Microelectronic Systems Division ("MSD") of the Industrial Electronics Group at its Rancho Santa Margarita, California, facility.

2. During his employment, Senter was a member of the Electronic and Space Technicians, Local 1553, AFL-CIO ("EAST" or the "Union"), and the terms and conditions of his employment were governed by a collective bargaining agreement entered into between Hughes and the Union (the "Southern California Agreement"). The Southern California Agreement covers the bargaining unit of "all production, maintenance, shop clerical employees employed in factory areas, and all employees in the job classifications listed in the Appendices of this Agreement and who are employed by its El Segundo, Fullerton, Newport Beach, Rancho Santa Margarita, Malibu, Torrance, Canoga Park, Long Beach, Irvine area plants, and the Corporate Headquarters located in Los Angeles, California, and referred to in the NLRB certifications and applicable orders and agreements." "Timekeeper A" is one of the job classifications listed in the Appendix of job classifications for the Industrial Electronics Group.

3. Hughes' Industrial Products Division and the Hughes Technology Center entered into a second separate collective bargaining agreement with the Union covering employees in Carlsbad, California (the "Carlsbad Agreement"). The bargaining unit under the Carlsbad Agreement is defined as "all factory production, maintenance, and warehouse employees as listed in Appendix "C" of this Agreement and who are employed by its Carlsbad, California Area plants of the Industrial Products Division, and Hughes Technology Center, Hughes Aircraft Company, and referred to in the NLRB Certification in Case Number 21-RC-6197 and the applicable NLRB Order and Consent Election Agreement." Timekeeper is not listed in the covered job classifications in the Carlsbad Agreement Appendix.

4. Article II, Section B of the Southern California Agreement specifically states, *inter alia*, that: "Provided such does not violate other terms of this Agreement, Management shall have the right . . . to determine the extent to which the Plants or any unit of the Plants shall be operated or shut down."

5. In late 1991 or early 1992, Hughes informed the Union of its decision to move the MSD product lines from Rancho Santa Margarita to Carlsbad. Hughes informed the Union that its decision was based on the high costs of operating the Rancho Santa Margarita facility, the shrinking market for MSD product lines and the greater efficiencies that would result from combining similar product lines in a single facility. Hughes intended to integrate fully the two workforces at the Carlsbad facility and to merge the two bargaining units under the Southern California Agreement and the Carlsbad Agreement into one.

6. Thereafter, representatives from Hughes and the Union met to negotiate over the effects of Hughes' decision to shut down its Rancho Santa Margarita

facility. These negotiations focused primarily on the following issues: (1) protecting the seniority rights of the Rancho Santa Margarita bargaining unit employees transferring to Carlsbad; (2) determining who would be transferred to Carlsbad; and (3) integrating the job classifications and wage structures of Rancho Santa Margarita and Carlsbad. Hughes proposed, and the Union eventually agreed, that for purposes of efficiency, certain "support" job classifications would not be transferred to Carlsbad because they would duplicate functions already performed by Carlsbad employees. Timekeeping was one of the "support" job classifications that was not going to be transferred to Carlsbad. In addition, Hughes informed the Union that it would not transfer Rancho Santa Margarita electrical and plant maintenance employees because those functions already were being performed by Carlsbad employees.

7. As a result of these negotiations, Hughes informed Senter in March 1992 that he would not be transferred to Carlsbad but instead would be laid off.

8. Thereafter, but proper to his layoff, Senter filed a grievance under the Southern California Agreement. Hughes denied the grievance as premature because Senter had not yet been laid off.

9. Senter was laid off on July 10, 1992. Senter was one of 79 bargaining unit employees who were laid off and not trasferred to the Carlsbad facility.

10. Shortly after his layoff in July 1992, Senter filed another grievance in which he alleged that Hughes had violated the Southern California Agreement by laying him off because his timekeeping position, a bargaining unit job under the Southern California Agreement, was being performed by a nonbargaining unit employee at Carlsbad. Accordingly, Plaintiff sought a transfer to Carlsbad.

11. The Union filed and processed Senter's grievance against Hughes. In accordance with the terms of the grievance procedure outlined in the Southern California Agreement, the Union met with Hughes on July 30, 1992, for the "Step Two" Meeting. Thereafter, on August 15, 1992, the Union met with Hughes for third step "informal arbitration."

12. After considering the arguments, Highes denied Senter's grievance for the following reasons: (1) after the MSD operations were transferred, no need existed for a full-time timekeeper at the Rancho Santa Margarita facility; (2) nothing in the Southern California Agreement precluded Hughes from shutting down the Rancho Santa Margarita facility and moving its MSD operations to Carlsbad; (3) no provision in the Southern California Agreement required Hughes to transfer Senter to Carlsbad when the MSD operations were moved; and (4) timekeeping was not a bargaining unit classification at the Carlsbad facility.

13. Plaintiff's grievance was processed through three of the four steps of the grievance and arbitration process under the Southern California Agreement. The Union had the right to take Plaintiff's grievance to the fourth step by requesting formal arbitration, but Hughes received no such request and, accordingly, Plaintiff's grievance was never arbitrated. Notwithstanding, the Union appealed again to Hughes to transfer Senter to Carlsbad to handle the additional timekeeping requirements created by the merger. Hughes informed the Union that it did not require an additional timekeeper because it already had a timekeeper in Carlsbad and only 55 Rancho Santa Margarita employees were being transferred.

14. On March 17, 1993, Senter filed this action in state court alleging causes of action for breach of the collective bargaining agreement against Hughes, breach

of the duty of fair representation against the Union, and conspiracy to deny rights under the collective bargaining agreement against both Hughes and the Union. In April 1993, Senter amended his complaint to add a fourth cause of action for violation of California Labor Code Sections 923 and 1122 against both Hughes and the Union.

15. In April 1993, the action was properly removed to federal court on the ground that the amended complaint states a cause of action under Section 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185.

16. Hughes and EAST each moved for summary judgment. Senter opposed both motions.

17. Any finding of fact properly deemed a conclusion of law shall be incorporated by reference as though fully set out as a conclusion of law.

Based upon the above findings of fact as to which this Court finds no material dispute exists, this Court makes the following conclusions of law:

18. Summary judgment properly should be entered when "There is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law." Fed. R. Civ. Proc. Rule 56(c). A dispute as to a material fact is "genuine" ony "if the evidence is such that a reasonable jury could return a verdict for the moving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

19. Plaintiff's purported state law claims alleged against Hughes for "Breach of Collective Bargaining Agreement as a Third Party Beneficiary" and "Conspiracy to Deny Rights Under a Collective Bargaining Agreement" implicate his alleged rights under the Southern California Agreement and thus properly are recharacterized as claims under Section 301 of the

LMRA, over which this Court properly exercises jurisdiction. *Fristoe v. Reynolds Metals Co.*, 615 F.2d 1209, 1212 (9th Cir. 1980) ("all rights and claims arising from a collective bargaining agreement in an industry affecting interstate commerce arise under Federal law . . . state law does not exist as an independent source of private rights to enforce collective bargaining agreements" [citation omitted]); *see also Casteneda v. Dura-Vent Corp.*, 648 F.2d 612, 618 (9th Cir. 1981) ("jurisdiction exists under section 301 only to the extent that the dispute is focused upon and governed by the terms of the collective bargaining agreement").

20. Senter's purported cause(s) of action alleged against Hughes for "Violation of California Labor Code Sections 923 and 1122" are *in pari materia* (*see Chavez v. Sargent*, 52 Cal.2d 162, 205 (1959)) and allege that Hughes "supported, financed, interfered with, dominated and/or controlled" the Union during the negotiations concerning the merger of Rancho Santa Margarita and Carlsbad work forces. The Court concludes that this cause of action essentially alleges that Hughes engaged in unfair labor practices under Section 8 of the National Labor Relations Act, 29 U.S.C. § 158 ("NLRA"), and, accordingly, this Court has no subject matter jurisdiction over this claim. *Casteneda, op. cit.*, 648 F.2d 616, citing *San Diego Building Trades Council v. Garmon*, 359 U.S. 236, 245 (1959) ("[w]hen an activity is arguably subject to § 7 or § 8 of the [NLRA], the States as well as the federal courts must defer to the exclusive competence of the National Labor Relations Board . . . .").

21. Hughes prevails as a matter of law on Senter's claim under Section 301 for breach of the collective bargaining agreement because Senter failed to exhaust his remedies under the Southern California Agreement by not proceeding through formal arbitration on his grievance or, alternatively, failed to demonstrate that he

was excused from exhausting his remedies under the Southern California Agreement because of a breach of the duty of fair representation on the part of the Union. *See Fristoe, op. cit.*, 615 F.2d at 1214-15; *Casteneda, op. cit.*, 648 F.2d 617 ("While employees may sue their employer for breach of a collective bargaining contract[,] . . . employees must attempt to exhaust the contractual grievance procedures before seeking judicial relief."); *Vaca v. Sipes*, 386 U.S. 171, 184, 186 (1967) ("the wrongfully discharged employee may bring an action against his employer in the face of a defense based upon the failure to exhaust contractual remedies, provided that the union as bargaining agent breached its duty of fair representation in its handling of the employee's grievance").

22. Even if Senter's claim against Hughes for breach of the collective bargaining agreement were properly entertained by this Court, Hughes would prevail as a matter of law on the claim because Senter can demonstrate no contractual right under either the Southern California or Carlsbad Agreements to perform the timekeeper function at Carlsbad.

23. Hughes prevails as a matter of law on Senter's conspiracy claim alleging that "Hughes and the Union . . . consented, agreed, and conspired with one another to deprive and deny [Senter] the rights, privileges and benefits which accrued to him under the collective bargaining agreement at issue in this lawsuit," because Senter failed to exhaust his remedies under the Southern California Agreement and he failed to demonstrate that any of his collective bargaining rights were violated in fact. Accordingly, Plaintiff cannot and has not presented any credible evidence in support of this claim.

24. Any conclusion of law properly deemed a finding of fact shall be incorporated by reference as though fully set out as a finding of fact.

Based upon the foregoing findings of fact and conclusions of law, the Court has concluded that no genuine issue of material fact exists. Accordingly,

IT IS HEREBY ORDERED THAT judgment be entered in favor of Defendant Hughes Aircraft Company and against Plaintiff William T. Senter.

DATED: January 14, 1994

David V. Kenyon
David V. Kenyon
United States District Judge

Respectfully submitted by:

/s/ Patricia L. Kasschau
Patricia L. Kasschau
Attorney for Hughes Aircraft Company

APPENDIX B

Patrick T. Connor, Bar # 89136
a member of
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FILED
JAN 14, 1994
Clerk, U.S. District Court
Central District of California
By _____ Deputy

UNITED STATES DISTRICT COURT
CENTRAL DISTICT OF CALIFORNIA

WILLIAM T. SENTER, an individual,
Plaintiff,

vs.

HUGHES AIRCRAFT COMPANY, a Delaware corporation; ELECTRONIC AND SPACE TECHNICIANS LOCAL 1553, an unincorporated association,
Defendants.

Case No.: CV 93-2252 KN (CHKx)

JUDGEMENT [PROPOSED]

AFTER CONSIDERING THE PAPERS SUBMITTED, in an Order dated December 15, 1993, the Court granted defendant Electronic and Space Technicians Local 1553's (the "Union") motion for summary judgement, finding as follows:

1. Plaintiff William T. Senter ("Senter") failed to establish a genuine issue as to any material fact;

2. Senter's state law claims arise under the collective bargaining agreement between the Union and his employer Hughes Aircraft Company ("Hughes") and are preempted by Section 301 of the Labor Management Relations Act;

3. Senter's claim that the Union and Hughes violated California Labor Code Sections 923 and 1122 is preempted by the National Labor Relations Act and the National Labor Relations Board has exclusive jurisdiction over such claims;

4. The Union did not breach its duty of fair representation to Senter because the Union did not handle his grievance improperly and the Union's decision not to pursue Senter's grievance to arbitration was not arbitrary, discriminatory, or in bad faith; and

5. Senter's claim alleging that the Union and Hughes conspired to deprive him of his rights under the collective bargaining agreement fails because Senter's bargaining rights were not violated and Senter presented no credible evidence to raise a genuine issue of material fact regarding this claim.

Accordingly, there being no genuine issues of material fact, and the Union being entitled to judgement as a matter of law, Judgement is entered in favor of defendant Electronic and Space Technicians Local 1553 and against plaintiff.

Dated: January 14, 1994

David V. Kenyon
United States District Judge

APPENDIX C

HUGHES

Agreement

between

Hughes Aircraft Company

and

Electronic and
Space Technicians

Local 1553 AFL-CIO

Effective November 2, 1991
to November 5, 1994

[Excerpted from page 4.]

* * *

c. Comply with Plant rules and regulations.

d. Cooperate to keep at a minimum the time devoted by Officers, Stewards and members in handling grievances.

e. Not solicit Union members, Union dues or engage in other Union activities on Company property during working hours, unless specifically authorized by this Agreement.

Section B. Right to Manage the Plant

1. The management and operation of the Plants, administration of the Employer's business and direction of the working force are exclusive functions of Management. Provided such does not violate other terms of this Agreement, Management shall have the right to increase, decrease or rotate the working force; to hire, promote, demote, discharge or discipline for cause; to transfer or reclassify employees; to originate merit raises and determine merit ratings; to assign personnel to shifts, overtime and special work requirements; to establish work processes, standards, shifts, schedules and methods; to plan, route and schedule production; and, to determine the extent to which the Plants or any unit of the Plants shall be operated or shut down.

2. The above enumeration of Management's functions shall not exclude others not enumerated.

Section C. Separability

1. It is agreed between the parties that should any Article or portion of an Article of this Agreement be declared invalid, or modified in any way by legally-constituted authority, including any government agency having jurisdiction, all remaining Articles and portions of Articles shall continue in effect.

Section D. Waiver

1. The waiver by either party of one or more breaches of the obligations of the other party under the Agreement shall not constitute a waiver of any other or further breach of said obligation.

Section E. Successor or Assignee

1. This Agreement shall be binding on any successor or assignee of all or a major part of the Employer.

APPENDIX D

HUGHES

Agreement

between

Hughes Aircraft Company

and

Electronic and
Space Technicians

Local 1553 AFL-CIO

Effective November 2, 1991
to November 5, 1994

[Excerpted from page 123.]

* * *

Supplemental Agreement #11

November 2, 1991

Electronic and Space Technicians
Local #1553, AFL-CIO
13144 S. Prairie Avenue
Hawthorne, CA 90250

Attention: C. J. Jackson, President

Dear Mr. Jackson:

Pursuant to our discussion during contract negotiations, this will confirm our understanding concerning facilities which may be opened in the San Diego area.

The Company agrees that in the event it may hire or transfer employees in the bargaining unit classifications to any facility established in the San Diego area, it will offer EAST, Local #1553, the opportunity to represent them, on the same basis as all other bargaining unit employees covered by the current Collective Bargaining Agreement.

APPENDIX E

HUGHES

Subsidiary of GM Hughes Electronics
Corporate Offices: 7200 Hughes Terrace
PO Box 45066, Los Angeles CA 90045-0066
(213) 568-7200

February 7, 1992

Mr. C. J. Jackson
Electronic & Space Technicians
13144 South Prairie Avenue
Hawthorne, CA 90250

Dear Mr. Jackson:

Hughes Aircraft Company proposes that the Collective Bargaining Agreement (CBA) for our Carlsbad, California facility, expiring June 27, 1992 be adopted "en toto" as an addendum to EAST Local #1553 Collective Bargaining Agreement which was effective November 2, 1991 and expires November 5, 1994.

It is further proposed that such adoption would change the effective date of the Carlsbad CBA to be the same as the Local #1553 CBA described in the foregoing paragraph.

With respect to EAST jurisdiction at Carlsbad, such jurisdiction shall continue as described in the current Carlsbad Agreement.

This jurisdiction includes any work performed by EAST Local #1553 members for Light Valve Products, Inc. (LVPI) at the Carlsbad, CA area plant facilities set forth in the Carlsbad CBA. However, it is understood that the Union is agreeable to developing classifications for

LVPI which incorporates teaming and job combinations relevant to LPVI's operations.

While the Carlsbad Agreement has been adopted "en toto" it is the parties intent to integrate the language of the two (2) CBA's by August 1, 1994 and thereby modify the Carlsbad CBA during this time period. To this end, a steering committee is established consisting of the Corporate Human Resource Director, Corporate Manager of Labor Relations, President of EAST Local #1553 and Jim Bernsen, Administrative Assistant for the District Council of Carpenters.

Reporting to this committee shall be a sub committee composed of the HR Managers representing HTC and IPD or their designees, an EAST Local #1553 Business Agent and a Senior Steward. This sub committee may also have other representatives of their choosing as needed.

It will be the charge of this sub committee to make recommendations to the steering committee for eliminating the language differences between the two (2) CBA's.

Hughes Technology Center proposes that the Integrated Circuit Processor Sr. LG 06 be upgraded to LG 05 effective February 1, 1992.

Effective with the acceptance of this proposal the new title Classification Appendix, Application of Job Classification, effective March 1, 1992, will be incorporated into the Carlsbad CBA.

The Company proposes that wage increases shall be as set forth in Article IV attached. The Company is also proposing a job combination for IPD contained as a separate document attached.

It is our desire that all of the foregoing be presented to Local #1553 Carlsbad, CA membership on or before February 15, 1992 for a ratification vote.

Very truly yours,

/s/ Kenneth W. King
Kenneth W. King
HUGHES AIRCRAFT COMPANY
Manager, Labor Relations
Corporate Human Resources

Attachments

cc: D. Kulchin
T. Magness
R. G. Parke, Jr.
B. J. Wilson
EAST FILE

APPENDIX F

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED
Pasadena Office
APR 03 1995
Cathy A. Catterson
Clerk, U.S. Court of Appeals

WILLIAM T. SENTER
Plaintiff / Appellant
vs.
HUGHES AIRCRAFT COMPANY
Defendant / Appellee

CA: 94-55359
DC: CV-93-02252-Kn
CENTRAL CALIFORNIA

ORDER

Before: NOONAN, O'SCANNLAIN and LEAVY,
Circuit Judges

Appellant's motion to submit this case on the briefs is granted. The case will be submitted on the briefs and record on Monday, April 3, 1995, in Pasadena, California.